

Message Text

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ACTION EB-07

INFO OCT-01 ARA-06 ISO-00 L-03 CAB-02 CIAE-00 COME-00

DODE-00 DOTE-00 INR-07 NSAE-00 FAA-00 FMC-01 SAL-01

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TO SECSTATE WASHDC 7631

INFO AMEMBASSY BOGOTA

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EO 11652: N/A

TAGS: EFIN, CI, EAIR

SUBJECT: DISCRIMINATORY PRACTICES, AVIATION AS WELL AS SHIPPING

REF: SANTIAGO 1655

1. SUMMARY. BRANIFF REGIONAL VICE PRESIDENT (BRUNSON) HAS BROUGHT TO OUR ATTENTION DRAFT LEGISLATION NOW UNDER CONSIDERATION WITHIN THE MINISTRY OF NJTRANSPORT, IMPOSING UPON AIR CARGO DISCRIMINATORY PRACTICES SIMILAR TO THOSE WHICH, IN THEORY AT LEAST, WE HAVE JUST SUCCEEDED IN EASING WITH REGARD TO SHIPPING. EMBASSY HAS BEGUN INTERVENTION WITH CONCERNED GOC AGENCIES. REQUEST LIST OF POSSIBLE COUNTERMEASURES. END SUMMARY.

2. KEY ARTICLE 18 IN DRAFT LEGISLATION RESERVES TO NATIONAL CHILEAN AIR TRANSPORT COMPANIES ALL AIR CARGO, WHETHER EXPORT OR IMPORT, WHICH BENEFITS FROM TAX OR CUSTOMS EXEMPTIONS. FIFTY PERCENT OF ALL OTHER AIR CARGO, IMPORT OR EXPORT, IS RESERVED ALSO TO CHILEAN COMPANIES. A FURTHER PARAGRAPH STATES, HOWEVER, THAT THESE CARGO RESERVES ARE WITHOUT PREJUDICE TO PROVISIONS OF ALREADY EXISTING BILATERAL AGREEMENTS. (TRANSLATION OF RELEVANT PORTION OF TEXT BEING POUCHED.)

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3. AS WITH DISCRIMINATION IN SHIPPING, MOST SERIOUS PROBLEM,

APART FROM OUTRIGHT DENIAL OF CARGO, WILL BE NUISANCE OF OBTAINING WAIVERS IN ORDER TO SHIP ON NON-CHILEAN LINE. WE FORESEE INSTINCTIVE PREFERENCE BY SHIPPERS FOR LAN-CHILE, IN ORDER TO AVOID DELAYS FROM NEED TO OBTAIN WAIVERS TO USE BRANIFF.

4. ECON COUNSELOR HAS ALREADY MET WITH MEMBERS (ECONOMIC DIRECTORATE) OF FONMIN AS WELL AS DIRECTOR OF JUNTA AERONAUTICA (GUMUCIO) IN MINISTRY OF TRANSPORT. FONMIN IS CONCERNED THAT DRAFT LEGISLATION RAISES SAME PROBLEM AS EARLIER, SHIPPING CASE. TO ASSIST THEM IN PRESENTING TO THE REST OF THE GOC THE POTENTIALLY SERIOUS IMPLICATIONS OF THIS DRAFT LEGISLATION, FONMIN HAS ASKED US FOR AN AIDE-MEMOIRE DETAILING POSSIBLE DAMAGE TO BRANIFF. WE ARE DEVELOPING THIS INFORMATION IN COOPERATION WITH BRANIFF.

5. GUMUCIO WAS BEMUSED BY ENTIRE SITUATION. REGULARLY, HE SAID, IN COUNTRIES LIKE CHILE, SOME QUOTE GENIUSES UNQUOTE COME UP WITH THE QUOTE NEW UNQUOTE IDEA THAT THEY CAN RESERVE ALL FREIGHT, OCEAN OR AIR, FOR THEIR OWN NATIONALS. THE HEIGHT OF ABSURDITY WAS REACHED RECENTLY WITH THE CHILEAN EFFORT TO RESERVE ONE-HUNDRED PERCENT OF CHILEAN EXPORTS TO CHILEAN SHIPS. AT THE SAME TIME, THE COLOMBIANS TRIED TO DO THE SAME FOR COLOMBIAN SHIPS, AND EACH COMPLAINED ABOUT THE OTHER.

6. THESE ABSURDITIES NOTWITHSTANDING, GEMUCIO CONTINUED, SOME ACCOMMODATION WOULD PROBABLY HAVE TO BE REACHED WITH THESE CHILEAN PROTECTIONIST TENDENCIES. HOW, FOR EXAMPLE, WOULD THE USG REACT TO A RESERVATION TO LAN-CHILE OF ALL EXPORTS OR IMPORTS FROM OR DESTINED FOR COMPANIES OWNED BY THE CHILEAN STATE? ECON COUNSELOR GAVE HIM SHORT SHRIFT, NOTING THAT USG FAVORED MAXIMUM EFFICIENCY THROUGH FREE COMPETITION. MOREOVER, IT INSURED AND FINANCED EXPORTS AND COULD ACCORDINGLY INFLUENCE CHOICE OF CARRIERS. LEGISLATION EXISTED TO MAKE POSSIBLE COUNTERVAILING MEASURES SHOULD DISCRIMINATION ARISE IN THE CARRIAGE OF THESE EXPORTS. WE HAD ALREADY EVIDENCED OUR DETERMINATION THAT DISCRIMINATION END WITH RESPECT TO OCEAN FREIGHT, AND WERE PREPARED TO DO THE SAME WITH REGARD TO AIR FREIGHT.

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7. GUMUCIO CONCLUDED WITH A REFERENCE TO THE EXISTING CIVIL AIR BILATERAL, ACKNOWLEDGING THAT THE DRAFT LEGISLATION, IF IMPLEMENTED, MIGHT WELL PUT CHILE IN BREACH OF THAT AGREEMENT. GUMUCIO AND ECON COUNSELOR AGREED TO MEET AGAIN AFTER TWO WEEKS.

8. COMMENT: FONMIN (LACKINGTON) HAD EARLIER WARNED US THAT THIS NEW MEASURE WAS BEING CONSIDERED. WE HAD SINCE ASSUMED THAT RECENTLY PROMULGATED DECREES (REFTEL) IN SHIPPING AREA,

COUPLED WITH RECENT REPLACEMENT OF MINTRANSPORT GARIN (CERTAINLY REFLECTING DISENCHANTMENT OVER MANNER IN WHICH HIS MINISTRY HAD EARLIER HANDLED THIS SHIPPING MATTER) WAS EVIDENCE THAT GOC HAD AT LONG LAST SEEN THE LIGHT. REAL PROBLEM, HOWEVER, REMAINS THAT OF COORDINATION, INCLUDING DIFFICULTIES ENCOUNTERED BY GOC ECONOMIC TEAM IN IMPOSING ITS FREE MARKET VIEWS ON TRADITIONALLY PROTECTIONIST GOC BUREAUCRACY. EXISTENCE OF CIVIL AIR BILATERAL, FROM OUR EXPERIENCE, WILL NOT NECESSARILY DETER GOC FROM PRACTICES INCONSISTENT WITH IT. IN THIS CONNECTION, DEPARTMENT WILL DERIVE SMALL COMFORT FROM RECENT INDICATION THAT OCEAN FREIGHT DISCRIMINATION, DECREE 98 AND ORDER 431 NOTWITHSTANDING, STILL CONTINUES. PRUDENTIAL LINES SANTA MERCEDES, SAILING FROM VALPARAISO MARCH 7, WAS ON MARCH 5 DENIED WAIVER TO CARRY TEN TONS OF SEED AND TWENTY TONS OF MUSHROOMS TO LOS ANGELES, ON GROUNDS THAT CHILEAN M.S. ARICA WAS SAILING MARCH 11 FOR SAME DESTINATION AND WANTED THE CARGO.

9. ACTION REQUESTED: A) LIST OF POSSIBLE RETALIATORY MEASURES IN CIVIL AVIATION AREA, WHICH USG CAPABLE OF TAKING IN EVENT DRAFT LEGISLATION BECOMES EFFECTIVE. B) CONTINUATION OF SECTION 21 PROCEDURES.
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